IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 493 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARMAR MAHENDRAKUMAR KHODABHAI - Applicant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR SIRAJ R GORI for Applicant(s) : 1,
MS ARCHANA RAVAL APP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 05/09/2007

ORAL JUDGMENT

1. The petitioner has filed this criminal revision application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 and

challenged the order passed below Exh. 67 by learned Special Judge, Patan in Special ACB Case No. 3 of 2006 on 29-5-2007.

2. The petitioner was prosecuted for the offences punishable u/ss 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act. At the end of the trial the petitioner was acquitted for the offences charged against him. Thereafter, the petitioner moved application Exh. 67 for return of the passport deposited by him in the court pursuant to the order passed by the trial court while releasing him on bail. After hearing the parties, the learned trial Judge rejected application Exh. 67. Therefore, the petitioner has filed the present revision application.

3. I have heard the learned advocate for the petitioner and learned A.P.P. Ms. Archana Raval for the respondent – State.

4. It appears from the copy of the judgment of the trial court annexed with the application that the petitioner was acquitted for the offences charged against him. It also appears from the order annexure 'C' passed on 13-10-2004 by the learned Special Judge, Patan in A.C.B. Case No.9 of 2004 that the petitioner moved an application for regular bail u/s 439 of the Code of Criminal Procedure and the Court allowed the application and released the petitioner on bail on certain conditions and one of

the condition was to deposit the passport in the court.

5. It appears that pursuant to the condition imposed by the trial court upon the petitioner, passport was deposited before the trial court by the petitioner.

6. Having regard to the submissions made by the learned advocate for the petitioner and learned A.P.P. for the respondent – State and in view of the fact that the case has been disposed of and the petitioner has been acquitted for the offences charged against him as the passport was ordered to be deposited in the court with a view to secure presence of the petitioner at the time of trial the passport is required to be returned to the petitioner.

7. The impugned order indicates that the learned trial Judge refused to return the passport to the petitioner on the ground that the passport has become muddamal article and therefore it was to be retained in the proceedings of the case. In my view, when the proceedings have come to an end in acquittal and when the passport was deposited pursuant to one of the conditions while releasing the petitioner on bail, the passport would not become muddamal article in the proceedings. Therefore, the learned trial Judge committed error in rejecting application Exh. 67.

8 In view of above, this revision application succeeds and order dated 29-5-2007 passed below Exh. 67 in Special A.C.B. Case No. 3 of 2006 by learned Special Judge, Patan is quashed and set aside and the passport deposited in the trial court pursuant to the order dated 13-10-2004 passed by the learned Special Judge, Patan in A.C.B. Crime Regi. No. 9 of 2004, is ordered to be returned to the petitioner. Rule made absolute to the extent aforesaid.

(Bankim N. Mehta, J.)

/JVSatwara/